

**REMARKS**

Claim 18 is canceled. Claims 1-17 and 19-20 are amended. New claims 21-29 are added. Claims 1-17 and 19-29 are pending.

**Support for Amendments**

The abstract is amended to correct a typographical error by addition of a parentheses to a chemical formula. Support for the amendment can be found in the abstract as originally filed.

The specification is amended to correct three typographical errors: "a" for "an", "present" for "represent", and "carbon" for "cabon". Support for the amendments can be found in the specification as originally filed.

Claim 1 is amended to change "N" to "NH". Support can be found in the specification at page 9, line 5 (paragraph [0026], line 1). Claim 1 is amended to define R<sub>9</sub> separately from the other R groups. R<sub>9</sub> is amended to not include "substituted and unsubstitute aryl" and to add "halogen". Support for the definition of R<sub>9</sub> can be found in original claim 1. Support for "halogen" can be found in examples 187, 188, and 189, and page 18, lines 13-16 (paragraph [0051]). Claim 1 is further amended to remove a duplicate of "C(=O)R'" from the definition of R<sub>1</sub>-R<sub>8</sub> and to remove "=O" from the definition of R' and add "aminoacids chain" to R'. Support can be found in original claim 1 and in original claim 11. Claim 1 is amended to correct a typographical error for "a" in place of "an". Claim 1 is also amended to remove "derivative" and "prodrug" and the proviso that "the compounds are not known lamellarins". Support for the remaining elements of claim 1 can be found in original claim 1.

Claim 2 is amended to include a separate definition for R<sub>7</sub>. Support for the definitions of R<sub>1</sub> through R'<sub>6</sub> as well as the separate definition for R' can be found in original

claims 1 and 2. R<sub>7</sub> is amended to not include H or OH, as well as to include a proviso that R<sub>7</sub> is not Me, Et, Pr, COMe, OH, OMe, OAc, O<sup>i</sup>Pr, or OBn when X is O. Support for the positively recited elements for R<sub>7</sub> can be found in original claims 1 and 2. Support for the proviso can be found on page 18, lines 23-25 (paragraph [0052]), and page 22, lines 20-22 (paragraph [0061]). (See MPEP 2173.05(i): If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. See *In re Johnson*, 558 F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) ("[the] specification, having described the whole, necessarily described the part remaining.")).

Claims 3-9, 11, 15-17, and 19-20 are amended according to US practice. Support can be found in the original claims.

Claims 7, 8, 10 and 12-14 are amended to replace "alkoxy" with OR' including a definition in the claims for R' such that OR' is an alkoxy. Support can be found in the original claims as filed.

Claim 15 is amended to be consistent with claim 14 from which it depends.

New claim 21 is presented to include a separate definition for R<sub>7</sub>. Support for the definitions of R<sub>1</sub> through R'<sub>6</sub> as well as the separate definition for R' can be found in original claims 1 and 2. R<sub>7</sub> is amended to not include H, OH, C(=O)R', and substituted or unsubstituted C<sub>1</sub>-C<sub>12</sub> alkyl as well as to include a proviso that R<sub>7</sub> is not OH, OMe, OAc, O<sup>i</sup>Pr, or OBn when X is O. Support for the positively recited elements for R<sub>7</sub> can be found in original claims 1 and 2. Support for the proviso can be found on page 18, lines 23-25 (paragraph [0052]), and page 22, lines 20-22 (paragraph [0061]). (See MPEP 2173.05(i): If alternative elements are positively recited in the specification, they may be explicitly excluded in the claims. See *In re Johnson*, 558

F.2d 1008, 1019, 194 USPQ 187, 196 (CCPA 1977) ("[the] specification, having described the whole, necessarily described the part remaining.")).

Support for new claims 22-26 and 29 can be found in the preferred elements of original claims 7, 11, 12, 13, 15, and 16.

Support for new claims 27-28 can be found in original claims 6 and 10, respectively. Claims 27-28 are presented so that the definition of R<sub>7</sub> is consistent with the definition in the respective claims 2 and 21 from which claims 27 and 28 depend in the alternative.

No new matter is presented.

#### **Rejections Under 35 USC 112, 1<sup>st</sup> paragraph**

Claims 1-20 are rejected for lack of enablement for derivatives and prodrugs. Applicants respectfully traverse. Although Applicants believe that the claims were fully enabled prior to amendment, the claims are amended to advance prosecution. However, as amended the claims would encompass desired prodrugs and derivatives and are fully enabled as such prodrugs and derivatives are within the chemical formulas presented in the claims. Applicants respectfully request withdrawal of the rejection.

#### **Rejections Under 35 USC 112, 2<sup>nd</sup> paragraph**

Claims 1-20 are rejected for indefiniteness for derivatives and prodrugs. Applicants respectfully traverse. Applicants believe that the claims as amended are definite. In order to advance prosecution, the terms are removed on the basis that the desired prodrugs and

derivatives are encompassed and defined within the chemical formulas presented in the claims. Applicants respectfully request withdrawal of the rejection.

Claim 1 is rejected for indefiniteness due to the term C<sub>1</sub>-C<sub>18</sub> aminoacid. By amendment, the phrase is “substituted or unsubstituted C<sub>1</sub>-C<sub>18</sub> aminoacid or aminoacids chain”. The Office Action argues that the actual intent is not clear. Applicants respectfully traverse on the basis that the claims are sufficiently definite. The intent of said term is to encompass amino acids having a number of carbons between 1 and 18. See for example pages 21 and 22 of the specification (paragraph [0061]) which provides examples of amino acid substituents. Applicants respectfully request withdrawal of the rejection.

Claim 1 is rejected due to the proviso that the compounds are not known lamellarins. The Examiner suggests that the claims should be amended to provide specific variables. By amendment, claim 2 is presented with a proviso with specific variables. Applicants respectfully request withdrawal of the rejection.

Claims 3-16 are rejected for the phrase “characterized in that”. By amendment, the phrase is removed.

Claim 11 is rejected for the phrase “preferably with a cationic group”. By amendment, claims 25 and 26 are presented with the phrase “aminoacid or aminoacids chain substituted with a cationic group”. See for example pages 21 and 22 of the specification (paragraph [0061]) which provides preferred amino acid substituents.

Claim 19 is rejected for lack of definiteness in what is being treated and who is being administered. Applicants respectfully traverse on the basis that the claim as amended is sufficiently definite.

Claims 18 and 20 are rejected for failing to set forth any steps. By amendment, claim 18 is canceled and claim 20 is amended to present an active step.

Applicants respectfully request withdrawal of the rejections for indefiniteness.

#### **Rejections Under 35 USC 101**

Claims 18 and 20 are rejected for failing to set forth any steps. By amendment, claim 18 is canceled and claim 20 is amended to present an active step according to US practice.

#### **Rejections Under 35 USC 102**

Claims 1-20 are rejected under 35 USC 102(b) as being anticipated by Fernandez (US Patent 5,852,033). Applicants respectfully traverse.

By amendment, R<sub>9</sub> in claim 1 is amended to not include an aryl group. Therefore, Fernandez does not anticipate claim 1. With respect to independent claims 2 and 21, Fernandez fails to disclose compounds wherein R<sub>15</sub> or R<sub>16</sub> according to Fernandez (see Fernandez col. 3-4, lines 1-30) is not Me, Et, Pr, COMe, OH, OMe, OAc, O<sup>i</sup>Pr or OBn when X is O. Applicants note that the corresponding substituent according to the numbering system in the present application is R<sub>7</sub>.

Claims 1-20 are rejected under 35 USC 102(e) as being anticipated by Banwell (US Patent 6,469,171). Applicants respectfully traverse.

By amendment, R<sub>9</sub> in claim 1 is amended to not include an aryl group. Therefore, Banwell does not anticipate claim 1. With respect to independent claims 2 and 21, Banwell fails to disclose compounds wherein R<sub>7</sub> according to Banwell (see Banwell col. 3-4, lines 18-20) are

not Me, Et, Pr, COMe, OH, OMe, OAc, O<sup>i</sup>Pr or OBn when X is O while still remaining within the scope of the claims regarding the definition of R<sub>7</sub>. Applicants note that the corresponding substituent according to the numbering system in the present application is also R<sub>7</sub>.

### CONCLUSION

Based on the foregoing amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the rejection of claims and allowance of this application.

### AUTHORIZATION


The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. **50-3732**, Order No. 13566.105007.

In the event that an extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. **50-3732**, Order No. 13566.105007.

Respectfully submitted,  
King & Spalding, LLP

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By: \_\_\_\_\_

  
Kenneth H. Sonnenfeld / Michael A. Willis  
Reg. No. 33,285 / Reg. No. 53,913

Customer Number 65989  
Correspondence Address:  
King & Spalding  
1185 Avenue of the Americas  
New York, NY 10036-4003  
(212) 556-2100 Telephone

(212) 556-2222 Facsimile